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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/047,103	DATE ET AL.	
	Examiner	Art Unit	
	Heather R. Jones	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 5-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 5-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 09/369,401.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed October 9, 2007 have been fully considered but they are not persuasive.

The Applicant argues on page 8, lines 8-19 that Miike et al. teaches to record the start time and end time of editing of an independent document (not a group of documents). The Examiner respectfully disagrees. Miike et al. discloses in Fig. 95 an input start and an input stop for the document as well as displaying two different images representing the input start and the input end, which shows that there is more than one image in the document (group of pictures). Furthermore, according to Fig. 95 Miike et al.'s document can consist of more than one still image, but Miike et al. just prefers to call it a document rather than a group of still pictures. Miike et al. also discloses in a different embodiment production start and end times are stored for each document (col. 47, lines 33-37). Therefore, Miike et al. discloses recording start times and end times for a group of still pictures, but just calls it a document and the rejection is maintained.

The Applicant argues on page 7, lines 20 – page 8, line 10 that Miike et al. fails to disclose "wherein the still picture group management information includes group summary information including a first recording time at which the still picture data of an earliest-recorded still picture in the still picture group was recorded first and a last recording time at which the still picture data of a latest-recorded still picture in the still picture group was recorded last, while the group

summary information excluding recording times of still pictures of the still pictures of the still picture group other than the first recording time of the earliest-recorded still picture and the last recording time of the latest-recorded still picture". The Examiner respectfully disagrees. The twelfth embodiment discloses storing start and end production times of the document in order to retrieve the desired data using these production times (col. 47, lines 33-37). Furthermore, in the previous embodiment Miike et al. discloses that a document can consist of more than one image (Fig. 95) therefore, constituting a group of images. Therefore, since each document that consists of more than one image will include the start and end production times of the entire document in order to properly retrieve the correct data. Therefore, Miike et al. meets the claim limitations of storing a first recording time at which the still picture data of an earliest-recorded still picture in the still picture group was recorded first and a last recording time at which the still picture data of a latest-recorded still picture in the still picture group was recorded last and the rejection is maintained.

The Applicant argues on page 8, lines 11-17 that Miike et al. columns 49-50 text pointed to within the Office Action, include a "starting time" and an "ending time" which are unrelated to a still picture group. The Examiner respectfully disagrees. Col.49,–line 59 - col. 50, line 39 in the Miike et al. reference give an example of how to retrieve documents (group of still images) by searching according to the start time and end time of each document, which would correspond to the first recording time at which the still picture data of an

earliest-recorded still picture in the still picture group was recorded first and a last recording time at which the still picture data of a latest-recorded still picture in the still picture group was recorded last. Furthermore, the "starting time" and "ending time" in cols. 49 and 50 are input by the user so that the user is retrieving the documents they desire. Once the user inputs the "starting time" and "ending time" they are compared with each document's starting and ending production times to retrieve the correct documents.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2, and 5-7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 of copending

Application No. 10/192,696. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in Application 10/192,696 encompass the claims in this case. The claims in Application 10/192,696 are claiming an apparatus for recording on a storage medium and this application is claiming the method for recording on that storage medium. Furthermore, if a patent were issued on this application one skilled in the art would recognize that it covers the claimed subject matter of Application 10/192,696. Therefore, the office cannot issue this patent without a terminal disclaimer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claim 7 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/192,717. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim in Application 10/192,717 encompasses the claim in this case. The claim in this case is claiming an apparatus for recording on a storage medium and the claim in Application 10/192,717 is claiming that storage medium. Furthermore, if a patent were issued on this application one skilled in the art would recognize that it covers the claimed subject matter of Application 10/192,717. Therefore, the office cannot issue this patent without a terminal disclaimer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claim 7 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/192,652. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim in Application 10/192,652 encompasses the claim in this case. The claim in this case is claiming an apparatus for recording on a storage medium and the claim in Application 10/192,652 is claiming an apparatus for playing back that storage medium. It is well known to have an apparatus that records and playbacks the same storage medium. Furthermore, if a patent were issued on this application one skilled in the art would recognize that it covers the claimed subject matter of Application 10/192,652. Therefore, the office cannot issue this patent without a terminal disclaimer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Miike et al. (U.S. Patent 5,787,814).

Regarding claim 7, Miike et al. discloses a method of recording still picture data and still picture group management information for managing N still pictures data as a still picture group onto a storage medium, where said N is an integer number equal to or greater than one, comprising the steps of: recording a first recording time at which the still picture data in the still picture group was recorded first and a last recording time at which the still picture data in the still picture group was recorded last in the still picture group management information (Figs. 2, 95, and 110-113; col. 12, lines 49-57; col. 13, lines 17-20; col. 47, lines 33-37; col. 49, line 59 - col. 50, line 39).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miike et al. (U.S. Patent 5,787,414) in view of Gagne (U.S. Patent Application Publication 2002/0023103).

Regarding claim **1**, Miike et al. discloses a method for recording still picture data and still picture group management information for managing N still picture data as a still picture group onto a storage medium, where N is an integer number equal to or larger than one, wherein the still picture group management information includes a first recording time at which the still picture data in the still

picture group was recorded first and a last recording time at which the still picture data in the still picture group was recorded last (Figs. 2, 95, and 110-113; col. 12, lines 49-57; col. 13, lines 17-20; col. 47, lines 33-37; col. 49, line 59 - col. 50, line 39). However, Miike et al. does not disclose the details of determining the first and last recording times at which the still picture data in the still picture group was recorded. Therefore, Miike et al. fails to disclose a method for comparing a recording time of the still picture data with the first recording times stored in the still picture group management information corresponding to the still picture group belonging to the still picture data and means, if the recording time is later than the last recording time, for replacing the content of the last recording time by the recording time and recording thereof.

Referring to the Gagne reference, Gagne discloses a method for recording wherein the management information is updated after editing the group of pictures by either adding or removing pictures, comprising the steps of: comparing a recording time of the still picture data with the first recording times stored in the still picture group management information corresponding to the still picture group belonging to the still picture data and if the recording time is later than the last recording time replacing the content of the last recording time by the recording time and recording thereof (paragraphs [0039], [0061], and [0080] – start and end times are updated). Gagne et al. discusses this invention according with the respect to movies, however it would apply for still pictures as well because movies are made up of a bunch of still pictures put together.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teaching of comparing and replacing times as needed in the management information as taught by Gagne with the apparatus as disclosed by Miike et al. in order to provide Miike et al. with a way to determine the first and last record times corresponding to the first and last still picture taken in the still picture group to update the management information.

Regarding claim **2**, Miike et al. in view of Gagne discloses all the limitations as previously discussed with respect to claim 1 as well as further disclosing comparing a recording time of the still picture data with the last recording times stored in the still picture group management information corresponding to the still picture group belonging to the still picture data; and if the recording time is later than the last recording time, the content of the last recording times is replaced by the recording time and recorded (Gagne: paragraphs [0039], [0061], and [0080] – start and end times are updated).

Regarding claims **5** and **6**, these are computer-readable storage medium claims corresponding to the method claims 1 and 2. Therefore, claims 5 and 6 are analyzed and rejected as previously discussed with respect to claims 1 and 2. Furthermore, Gagne discloses that the computer system has an editing program it uses to edit the picture data (paragraph [0056]).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather R. Jones whose telephone number is 571-272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Heather R Jones
Examiner
Art Unit 2621

HRJ
December 22, 2007

JOHN MILLER
SUPERVISORY PATENT EXAMINER
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